REMARKS

Reconsideration of the rejection of the subject matter of this application is requested.

Status of Claims

Claims 1-45 remain for consideration. Several changes have been made to the claims to correct errors and other formal defects. Claims 9 and 22 have been amended to overcome the objections of the Examiner. It is noted that the phrase: "and the field wherein the predetermined code is inserted ٍ is located in the shim header" is grammatically correct. A comma has been added for clarification. The dependency of several of the dependent claims has been switched so that they depend on claim 8. This is in recognition of the fact that the use of the claimed OAM labeling method is clearly new at the MPLS level.

The Drawing

The drawing on file appears to be acceptable.

Rejections On Prior Art

Claims 1-45 stand rejected under U.S.C. 103 as unpatentable in view of the Theimer et al. paper in view of the Harrison et al. paper which references a paper by Rosen et al.

Argument

Applicants' invention is characterized by the use of coded packets for

OA & M functions in a network. In a preferred embodiment the packets are used

in a multi-protocol label switching network (MPLS) network.

The Theimer et al. paper

This section is responsive to the rejection of claims 1-45 over the Theimer

et al. paper as the main reference. The paper written by Theimer et al. mentions

loopback packets for OAM functions in an MPLS network, but contains only a

meager description of how these are implemented. The system described in

applicants' specification goes well beyond the scope of the Theimer et al. paper.

However, to simplify the prosecution and advance it to a conclusion, the

accompanying affidavit under CFR 1.131 is presented to remove the Theimer et

al. paper as a reference. The cover page of Exhibit 1 shows a date of September

1999, and the affiant declares that the work described in the three pages was

done prior to the effective date of the Theimer et al. paper. The pages contain at

least as much of the relevant description of the invention as that contained in the

Theimer et al. paper.

Harrison et al. paper

The secondary reference, the Harrison et al. paper, has a date of October 1999,

which is also after the date of the work described in this application. Moreover, the

Harrison et al. paper does not describe the coded header that is referred to in

claim 1 to distinguish the OAM packets from user packets. The cited Rosen et al.

paper describes the known architecture for an MPLS label. There is nothing in

that reference alone, or in combination with the Harrison et al. paper that suggests

a special coded bit in the MPLS header for distinguishing between an OAM packet

and a user packet.

In view of the amendments, the affidavit, and these remarks,

reconsideration and allowance of claims 1-45 is requested.

Respectfully,

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Date: 1/22/04